



MEMORANDUM

To: PLANNING COMMISSION

Date: August 8, 2006

From: COMMUNITY DEVELOPMENT DEPARTMENT

Subject: USE PERMIT APPLICATION, UP-06-05: TENNANT - RODRIGUES

REQUEST

The applicant is requesting approval of a conditional use permit to allow extensive retail uses in a proposed light industrial building.

RECOMMENDATION

Environmental Assessment:	Categorical Exemption
Application, UP-06-05:	Adopt resolution approving the use permit
Processing Deadline:	January 27, 2007

PROJECT DESCRIPTION

The applicant proposes to construct a new 11,600-sf light industrial building at the northwest corner of Tennant Avenue and the railroad tracks in the ML, Light Industrial Zoning District. Approval of a use permit is requested to allow up to 15 percent (1,740 sf) of the new building to be devoted to retail sale of computers. At this time, the building is anticipated to include only two separate tenants; although, the building design would allow for further division of the interior space to accommodate additional tenants.

CASE ANALYSIS

Conditional Use Permit

In the ML, Light Industrial Zoning District, extensive retail is a conditionally permitted use. Extensive retail includes sales, rental, display, storage and related repair and servicing of bulky commodities, including computers. The applicant is requesting approval to operate an extensive retail use (i.e. sale of computers) in a new building proposed at the northwest corner of Tennant

Avenue and the railroad tracks. According to the applicant's Statement of Proposed Operations, the computer retail establishment will be open seven days a week from 9 am to 7 pm. Please refer to the applicant's Statement of Proposed Operations and Letter of Justification (attached to this report) for more detailed information regarding the proposed use.

Pursuant to the requirements in Section 18.54.050 of the Zoning Ordinance, the following findings are required to approve a conditional use permit for the proposed extensive retail use:

- A. The site is suitable and adequate for the proposed use.
- B. The proposed use and design would not have a substantial adverse effect on traffic circulation and on the planned capacity of the street system.
- C. The proposed use at the location will not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare.
- D. The design of the project is compatible with existing and proposed development within the district and its surroundings.

In addition to the required findings, the ML zoning district regulations restrict the floor area of extensive retail uses devoted to retail display and sales, in the aggregate, to no more than 15 percent of the gross floor area of the building. The areas devoted to retail sales and display are also required to be separated from other portions of the uses by permanent walls.

Site Suitability

The overall site is approximately 4.5 acres in size, and is bisected by Tennant Avenue (2.9 acres north of Tennant and 1.6 acres south of Tennant). The portion of the site proposed for development is the northern 2.9 acres; although, only 25 percent of the 2.9 acres will be developed with the proposed building and associated parking/landscaping (please refer to Sheet A1 of the project plans). The site is currently undeveloped and partially paved. It should be noted, however, that the existing Centurian Surplus Building to the west encroaches onto the project site. A private dog run/kennel is also located north of the proposed building and parking lot, which is proposed to remain after development of the site. Surrounding uses include industrial to the north, the remaining 1.6-acre portion of the site to the south across Tennant Avenue, industrial-zoned land to the east across the railroad tracks, and existing industrial and service commercial buildings to the west. Access to the development will be provided via an existing access easement located on the adjacent property to the west. The easement is currently being utilized by the applicant to access their adjacent Centurian Surplus site. However, documentation has not yet been provided that shows the applicant has rights to use the easement to access the proposed project site. Therefore, approval of the use permit would need to be contingent upon receipt of documentation identifying access rights via the easement. The proposed building will be constructed along Tennant Avenue with parking located to the rear and the side. Provided access is available via the existing easement, the site is adequately sized and located to accommodate the proposed use, building and required parking.

Circulation

The proposed development will utilize an existing curb cut and easement off Tennant Avenue for access. Therefore, minimal impact on Tennant Avenue is anticipated. Based on the size of the building and proposed uses, 25 parking spaces is required on-site. The project will provide 37 parking spaces. The proposed use and design is not anticipated to have a substantial adverse effect on traffic circulation or on the planned capacity of the street system.

General Welfare

The proposed use would not adversely affect the peace, health, safety, morals or welfare of persons residing or working in the surrounding area, or impair the utility or value of property of other persons located in the vicinity of the site, or be detrimental to public health, safety or general welfare. As noted in the attached Letter of Justification, the project owner (Centurian Holdings) owns a number of the surrounding buildings. Therefore, the project is not anticipated to adversely affect the peace, welfare or value of the immediate uses. Instead, the proposed development will enhance the project area.

Compatibility

The subject building is proposed to be single-story, concrete tilt-up with tile accents. The structure is in scale with the surrounding built environment and incorporates horizontal elements similar to those found on the adjacent buildings. However, the proposed building provides a more modern design and inviting appearance. As previously noted, the proposed retail use is restricted to 15 percent (1,740 sf) of the gross building square footage. The applicant has designed the building with the retail component located along Tennant Avenue to provide a more appealing street scene. In addition, a row of trees will be planted along the railroad frontage to soften the appearance of the building and parking lot for the passing commuter rail travelers.

It should be noted that the site is currently gated and surrounded by a chain link fence. As part of the proposed development, the applicant will remove all existing fencing with the exception of the segment located along the railroad frontage. Staff recommends that all existing fencing be removed, including along the railroad.

RECOMMENDATION

Staff recommends approval of the Conditional Use Permit request, subject to the findings and conditions contained in the attached resolution.

Attachments:

1. Approval Resolution
2. Applicant's Letter of Justification
3. Applicant's Statement of Proposed Operations

RESOLUTION NO. 06-

A RESOLUTION OF THE PLANNING COMMISSION OF THE CITY OF MORGAN HILL APPROVING A CONDITIONAL USE PERMIT TO ALLOW UP TO 15 PERCENT OF A PROPOSED 11,600-SF LIGHT INDUSTRIAL BUILDING TO BE OCCUPIED WITH AN EXTENSIVE RETAIL USE (COMPUTER SALES) AT THE NORTHWEST CORNER OF TENNANT AVENUE AND THE RAILROAD TRACKS IN THE ML, LIGHT INDUSTRIAL ZONING DISTRICT (APNs 817-05-069 and 817-06-053)

WHEREAS, such request was considered by the Planning Commission at their regular meeting of August 8, 2006, at which time the Planning Commission approved use permit application UP-06-05: Tennant - Rodrigues; and

WHEREAS, testimony received at a duly-noticed public hearing, along with exhibits and drawings and other materials have been considered in the review process.

NOW, THEREFORE, THE MORGAN HILL PLANNING COMMISSION DOES RESOLVE AS FOLLOWS:

- SECTION 1.** The approved project is consistent with the Zoning Ordinance and the General Plan.
- SECTION 2.** The project is categorically exempt from CEQA under Section 15332, In-Fill Development Projects.
- SECTION 3.** The approved conditional use has been found consistent with the criteria for use permit approval contained in Section 18.54.050 of the Zoning Code.
- SECTION 4.** The Planning Commission hereby approves up to 15 percent of a proposed 11,600-sf light industrial building to be occupied with an extensive retail use (i.e. computer sales) at the northwest corner of Tennant Avenue and the railroad tracks.
- SECTION 5.** Approval of the conditional use permit shall be contingent upon the applicant submitting proper evidence to the City identifying access rights to the project site via the existing 26-ft wide easement on APN 817-05-075.
- SECTION 6.** The approved project shall be subject to the following conditions:

- A. Signed Resolutions. Within 30 days of conditional use permit approval, the applicant shall submit two (2) signed copies of Resolution No. 06-__ to the Planning Division.
- B. Time Limitations. The Conditional Use Permit approval granted under this Resolution shall remain in effect for twelve (12) months from the effective date of the related Architectural and Site Plan Review Approval Resolution. Failure to commence the use within this term shall result in termination of approval unless an extension of time is granted with a showing of just cause prior to the expiration date.
- C. Use Approval. The use shall operate consistent with the applicant's Statement of Proposed Operations, date stamped August 1, 2006, on file with the Planning Division.
- D. Annual Review. In accordance with Section 18.54.090 of the Municipal Code, the Community Development Department shall conduct an annual review of the approved use for compliance with specified conditions. The Department may initiate corrective action as specified in the aforementioned Code Section as necessary to ensure compliance with said conditions.
- E. Defense and indemnity. Applicant agrees to defend and indemnify and hold City, its officers, agents, employees, officials and representatives free and harmless from and against any and all claims, losses, damages, injuries, costs and liabilities arising from any suit for damages or for equitable or injunctive relief which is filed against City by reason of its approval of applicant's project. In addition, developer shall pay all pre-tender litigation costs incurred on behalf of the City including City's attorney's fees and all other litigation costs and expenses, including expert witnesses, required to defend against any lawsuit brought as a result of City's approval or approvals, but shall not be required to pay any litigation from the City. However, developer shall continue to pay reasonable internal City administrative costs, including but not limited to staff time and expense spent on the litigation, after tender is accepted.
- F. Other Conditions:
 - 1. The floor area of the extensive retail use devoted to retail display and sales, in the aggregate, shall occupy no more than 15 percent of the gross floor area of the building. The areas devoted to retail sales and display shall also be separated from other portions of the uses by permanent walls.
 - 2. The exact configuration and design of the proposed development shall be reviewed and approved by the Architectural Review Board as part of the Architectural and Site Plan Review process.

3. All existing fencing shall be removed from the project site, including the segment located along the railroad frontage.
4. The applicant shall provide the City with copies of recorded documents identifying access rights to the subject site via the existing 26-ft. wide access easement located on APN 817-05-075.

PASSED AND ADOPTED THIS 8th DAY OF AUGUST 2006, AT A REGULAR MEETING OF THE PLANNING COMMISSION BY THE FOLLOWING VOTE:

AYES: COMMISSIONERS:

NOES: COMMISSIONERS:

ABSTAIN: COMMISSIONERS:

ABSENT: COMMISSIONERS:

ATTEST:

APPROVED:

FRANCES O. SMITH, Deputy City Clerk

ROBERT J. BENICH, Chair

A F F I D A V I T

I, **Jorge A. Lovato, Jr. of Centurian Holdings**, applicant, hereby agree to accept and abide by the terms and conditions specified in this resolution.

Jorge A. Lovato, Jr., Applicant

Date: _____

Kenneth A. Rodriguez, FAIA
Kevin Jones, AIA
Hwai Chen, AIA

SENIOR
ASSOCIATES:
Manuel Ordonez, AIA
Jeff Oparowski, AIA

CENTURIAN HOLDINGS LETTER OF JUSTIFICATION

August 1, 2006

The proposed research & development building at this location will not only benefit the employees in the immediate area but also serve to enrich the surroundings through fine design and allow Centurian Holdings to boost their retail presence. (15% of building)

Being located just south of the railroad tracks and within a predominately business/industrial area, the chosen site is definitely suitable and adequate for the proposed use. The project size is small enough that it will have a minimal affect on the traffic circulation, which is served by Tennant Ave.

The fact that the project is owned by Centurian Holdings, which also owns a couple of the adjacent buildings, means that the welfare and peace of the employees in the immediate area will not suffer. In fact, one of the main purposes of this development is to provide those employees a nice area of respite and supply their retail needs, and proposed additional R & D space. The property value of the businesses in the area will not suffer and will most likely increase. The design calls for tilt-up concrete with tile accents, all of warm colors, which fits nicely with the existing buildings surrounding it. Lastly, as there is no service station proposed, there will be not sales of food or beverages upon automobile service premises.

On the whole Centurian holdings wants to provide anew building that will support its own clients as well as others in the area, and this design will accomplish that.

PLANNING DEPT

AUG 01 2006

CITY OF MCCLINTOCK



445 North Whisman Road
Suite 200
Mountain View, CA
94035

Kenneth A. Rodrigues, FAIA
Kevin Jones, AIA
Hwai Chen, AIA

**S E N I O R
A S S O C I A T E S :**
Manuel Ordonez, AIA
Jeff Oparowski, AIA

CENTURIAN HOLDINGS
STATEMENT OF PROPOSED OPERATIONS
August 1, 2006

The proposed use of this project is research and development with 15% of the area used for retail purposes by Centurian Holdings. Centurian Holdings will use the retail area to support their computer sales. The balance of the building area (85%) will be used by compatible research and development uses to benefit the employees of the immediate area and to bring in outside patrons. Following is an itemized list of the proposed operations:

- Retail hours of operation are to be from 9am – 7pm.
- Retail will consist of computer sales.
- Approx. number of daily trips generated : 40
- No use of hazardous material of any sort will be allowed

PLANNING DEPT.

AUG 01 2006

CITY OF MORGAN HILL

R

445 North Whisman Road
Suite 208
Mountain View, CA
94043
650/265-0700